SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok Tuesday, 20th September, 2005 No. 347

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No: 4/LD/2005 Dated : 20/9/2005

NOTIFICATION

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 7th September, 2005 is hereby published for general information:-

THE SIKKIM VALUE ADDED TAX (AMENDMENT) ACT, 2005
(ACT NO. 12 OF 2005)
AN
ACT

further to amend the Sikkim Value Added Tax Act, 2005.

Be it enacted by the Legislature of Sikkim in the Fifty-sixth Year of the Republic of India as follows: -

Short title and commencement

1. (1) This Act may be called the Sikkim Value Added Tax (Amendment) Act, 2005.
(2) It extends to the whole of Sikkim.
(3) It shall come into force at once.

Amendment of the long title.

2. In the Sikkim Value Added Tax Act, 2005{hereinafter referred to as the 'principle Act') in the long title, after the words 'tax on sale and before the words of goods, the words "or purchase" shall be inserted.

Amendment of Section 8

3. In the principal Act, in clauses (b) and (c) of sub-section (3) of section 8, for the figure "2,00,000/-, wherever it occurs, the figure "3,00,000"shall be substituted.

Insertion of provisos to sub-section (1) of Section 13

4. In the principal Act, after the first proviso to sub-section (1) of section 13, the following provisos shall be inserted, namely :

"Provided further that if the amount towards labour charges and other like charges not involving any transfer of property in goods, actually incurred in connection with the execution of works contract are not ascertainable from the books of accounts maintained and produced by a dealer before the appropriate

assessing authority, such dealer shall be allowed to deduct from his gross turnover such amount towards labour charges and other like charges as the said authority shall determine on the basis of the nature of works, records available before him and making such verification as may be necessary, but not exceeding *forty percent* of the total value of the works executed by such dealer:

Provided further that the appropriate assessing authority shall determine the turnover taxable as applicable as per the rates of tax specified in the Schedules from the total taxable turnover ascertained after allowing deductions on account of labour charges and other like charges, on the basis of the records available before him and making such verifications as may be necessary in this behalf:

Provided also that the appropriate assessing authority shall record in writing the reasons of determination of taxable quantum and applicable tax rate on such taxable quantum".

Insertion of proviso to sub-section (5) of Section 26

Insertion of proviso to sub-section (5) of Section 26

5. In the principal Act, under sub-section (5) of Section 26, the following proviso shall be inserted, namely: -

"Provided that the Commissioner, if satisfied, do so by Notification, extending the period of limitation for registration for such further time as he deems necessary."

Insertion of new section 26A

6. In the principal Act, after Section 26, the following section shall be inserted, namely; -

"26A. Registration of certain classes of dealers-Notwithstanding anything contained in section 16, sub-section (1) of Section 26 but subject to the provisions sub-section (2), (3), (4), (5), (6), (7), (8), (9) and (10) of Section 26, Section 28 and Section 29, where a dealer has no fixed place of business in Sikkim but sells goods inside the State either directly or through representatives or agents including traveling representatives or agents or sales men inside the State or otherwise or, having one or more place or places of business in Sikkim, sells goods in places other than those in which such place is, or places of business are, situated, the Commissioner or an appropriate assessing authority authorized by him in this behalf, by order in writing, direct that such dealer shall be registered under the Act in respect of such sales and shall be liable for payment of tax as per the rates specified in Schedules II or III or IV or V, as the case may be, and that unless provided otherwise in this Act, the provisions of the Act and the rules made there under shall apply accordingly:

Provided that the Commissioner or the authorized assessing authority may hear the dealer before such order if request in writing in that behalf is made by him: Provided further that nothing in such order shall be deemed to divest the taxing authorities or Inspectors of the areas in which the dealer sells goods, of

their powers and functions delegated by the Commissioner or conferred by or under the Act or the rules made there under:

Provided also that the State Government may, by notification and subject to such conditions and restrictions as may be prescribed, permit any dealer registered under this section to pay in lieu of the tax payable by him at the rate or rates specified in the Schedules, an amount calculated at such rate not exceeding four percent of his gross turnover as may be specified in the notification issued in this behalf."

Insertion of new Section 30A

7. In the principal Act, after Section 30, the following section shall be inserted, namely; -"30A. Deferment of payment of tax in respect of certain industrial units and payment of tax in installments by the dealers- Subject to such restrictions and conditions as may be prescribed, the Commissioner may, in the prescribed manner, permit the output tax payable under this Act by a registered dealer or a class or classes of dealers as may be prescribed, according to his returns referred to in sub-sections(1), (2) and (3) of Section 30, to be deferred or to be paid in installments, as the case may be, subject to the provisions of the rules made under this Section."

Insertion of new Section 60A

8. In the principal Act, after Section 60, the following Section shall be inserted, namely:-

"60A. Enrolment of transporters, carriers or transporting agents- Every transporters, carriers or transporting agents operating his transporting business in Sikkim of transporting any consignment of taxable goods into or outside or within Sikkim shall obtain from the Commissioner a certificate of enrolment in such manner and within such time as may be prescribed."

Amendment of Section 75

9. In the principal Act, for the words and figure "referred to in Section 77 and an order of assessment against which an appeal lies under Section 73 passed by the assessing authority or the prescribed authority" the words and figures "passed under section 73 and Section 77 by the Appellate Authority", shall be substituted.

Repeal

10. The Sikkim Value Added Tax (Amendment) Ordinance, 2005 is hereby repealed.

By Order.

R.K. Purkayastha, SSJS,
Legal Remembrancer cum Secretary, Law.
File No. 16 (82) LD/2005.